

	<h1 style="text-align: center;">Garner Police Department</h1> <h2 style="text-align: center;">Written Directive</h2>	
	Chapter: 400 – Uniform / Equipment	
	Directive: 430.02 – Use of Recording Devices	
Authorized by: Chief Joe Binns		Effective Date: June 15, 2021
CALEA Standards: 41.3.8		

430.2.1 - Policy

Department employees may record conversations or images when such recording is appropriate for the proper performance of their duties, the recording is consistent with Departmental policy, and the recording is consistent with State, Federal, and Constitutional law.

430.2.2 – Purpose

To establish guidelines and procedures for employee use of recording devices other than body-worn cameras and in-car cameras to reliably and lawfully record contacts with others.

(Note – GPD 430.05, *Body-Worn & In-Car Cameras*, addresses the use of these devices separate and apart from this directive).

430.2.3 – Definitions

- A. Custodial Law Enforcement Agency - the law enforcement agency that owns or leases or whose personnel operates the equipment that created the recording at the time the recording was made (NCGS 132.1-4A).
- B. Disclose (aka Disclosure) - to make a recording available for viewing or listening to by the person requesting disclosure, at a time and location chosen by the custodial law enforcement agency. This term does not include the release of a recording (NCGS 132.1-4A).
- C. Personal Representative - a parent, court-appointed guardian, spouse, or attorney of a person whose image or voice is in the recording. If a person whose image or voice is in the recording is deceased, the term also means the personal representative of the estate of the deceased person; the deceased person's surviving spouse, parent, or adult child; the deceased person's attorney; or the parent or guardian of a surviving minor child of the deceased (NCGS 132.1-4A).
- D. Personally-Owned Recording Device – any recording device not issued by the Department for official use.
- E. Recordable Media –CDs, DVDs, digital chips, videotapes and any other devices of like kind which have the capability to have audio and/or video stored on them.
- F. Recorded Media – an authentic, accurate, and unaltered video and/or audio recording stored on recordable media.
- G. Recording - a visual, audio, or visual and audio recording captured by a body-worn camera, a dashboard camera, or any other video or audio recording device operated by or on behalf of a law

enforcement agency or law enforcement agency personnel when carrying out law enforcement responsibilities. This term does not include any video or audio recordings of interviews regarding agency internal investigations or interviews or interrogations of suspects or witnesses (NCGS 132.1-4A).

- H. Recording Device – any device capable of recording and storing audio, photographic, and/or video data.
- I. Reportable Incident – any officer-involved motor vehicle crash, use-of force, performance complaint, allegation of misconduct, or vehicle pursuit.
- J. Release – to provide a copy of a recording (NCGS 132.1-4A).
- K. Surreptitious Recording – a covert, clandestine, or secret recording of another person or persons without the knowledge and consent of the person(s) being recorded.

430.2.4 – Authorization and Guidelines for the Use of Recording Devices

- A. All Department employees, once trained to Department standards, are authorized to utilize Department-issued recording devices, including but not limited to digital voice recording devices and digital cameras.
- B. Employees shall not use a personally-owned recording device in the performance of their duties.
- C. Approved recording devices may be used by Department employees for the following purposes:
 - 1. To accurately document the circumstances or statements made during police-public contacts, arrests, and other incidents;
 - 2. To enhance the documentation of crime or crash scenes or other events, including the confiscation and documentation of evidence or contraband;
 - 3. To enhance the accuracy of reports;
 - 4. To enhance the department's ability to review employee work performance and training needs; or
 - 5. As required by the Department's [Internal Affairs Manual](#).
- D. Employees shall never intentionally surreptitiously record any other Department or Town employee or official or any other law enforcement officer without the permission of the Chief of Police or his designee.
- E. The making and retention of any recording made by an employee is governed by the provisions of the [North Carolina Public Records Act \(chapter 132 of the North Carolina General Statutes\)](#) and rules of evidentiary disclosure in criminal and civil court proceedings.
 - 1. As such, the status of the person making the recording governs the ownership of such recordings and not the ownership of the device making the recording.
 - 2. Therefore, any recording made by an employee of this Department while on-duty or otherwise conducting employment-related functions is deemed property of the Department as the custodial law enforcement agency.

3. Department recordings are not public records as defined by G.S. 132-1. Recordings are not personnel records as defined in Part 7 of Chapter 126 of the General Statutes, G.S. 160A-168, or G.S. 153A-98, as described in [N.C.G.S. 132-1.4](#).
- F. Officers will note in all incident, call for service, and related reports when photographs, video recordings, and/or audio recordings were made of the event in question.

430.2.5 –Recorded Media Control and Management

- A. Officers shall not erase, alter, or tamper with any recorded media made in the performance of employment-related duties. Any officer determined to have violated this rule shall be subject to Department discipline, up to and including termination.
- B. Recorded media shall be stored according to the following classifications:
 1. Evidentiary recorded media – Recorded media which has evidentiary value and is stored according to existing departmental policies and procedures for evidence. Officers shall be responsible for submitting this media into evidence and obtaining a court order for disposition of the evidence once the case is adjudicated.
 2. Internal Affairs recorded media – Recorded media which has value in an internal affairs investigation and is stored according to existing departmental policies and procedures for internal affairs investigations. Supervisors shall be responsible for providing this media to the Internal Affairs Investigator (if an allegation of misconduct) or to the investigating supervisor (if a performance complaint).
- C. All recorded media and their contents are the property of the Department. No employee shall release any recorded media, any copy of recorded media, or the contents of any recorded media to any outside agency or individual without the prior consent of the Administration Captain, the Chief of Police, or pursuant to a valid court order.

430.2.6 – Supervisory Responsibilities

Personnel who supervise officers utilizing recording devices are responsible for the following:

- A. Ensuring all officers follow established procedures for the use and maintenance of recording devices, the custody of recorded media, and the completion of required documentation.
- B. Conducting reviews of recorded media to assess officer performance, determine whether recording devices are being fully and properly used, and to identify material that may be of value for training purposes.
- C. Documenting the review of all recordings related to reportable incidents.
- D. Ensuring that repair and replacement of any damaged or nonfunctional recording device is properly performed.